IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

WP(C).No. 6945 of 2007(B)

PETITIONER:

SHAJU, S/O.SOURU, AGED 36, MEPPILLY HOUSE, KODUVELIPPADY, KOODALAPPADU, KOOVAPPADY VILLAGE, KOOVAPPADY P.O., KUNNATHUNADU TALUK.

BY ADV. SRI.V.RAJENDRAN (PERUMBAVOOR)

RESPONDENTS:

---

1. OKKAL GRAMA PANCHAYAT, REP.BY ITS SECRETARY OKKAL P.O., PERUMBAVOOR.

2. HEALTH SUPERVISOR AND HEALTH OFFICER (RURAL) PRIMARY HEALTH CENTRE VENGOOR, VIA PERUMBAVOOR.

3. ABABY, S/O.DEVASSY,PALLTHUKUDY HOUSE, KODUVELIPPADY BHAGOM, KOODALAPPAD, KOOVAPPADY P.O.

R1 BY ADV.SRI.SIBY MATHEW
R2 BY GOVT. PLEADER SRI.K.J.MOHAMMED ANZAR
R3 BY ADV. SRI.G.RAJAGOPAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

- -

W.P.(C) No.6945 of 2007

- -

Dated: 29th October, 2007

JUDGMENT

The grievance of the petitioner is that the third respondent, his neighbour, is conducting a cattle shed on his property which is situated in close proximity of the petitioner's property in an unhygenic way as a result of which nuisance and health hazards are being caused to the petitioner.

2. Counter affidavits have been filed on behalf of the third respondent and also by the 1st respondent-Panchayat. This court by interim order dated 8.6.2007 directed the 2nd respondent, the Health Supervisor and Health Officer attached to the Primary Health Centre, Vengoor to conduct an inspection and submit a report as to whether the conditions imposed as per Ext.R3(a) have been complied with by the petitioner and also as to whether the running of the cattle shed causes nuisance to the petitioner. This court also directed that it will be open to the 2nd respondent to make further suggestions so that the running of the cattle shed will be nuisance free from the petitioner's point of view. Pursuant to that interim order, the 2nd respondent has filed a report on 2.7.2007. Going by this report, the directions which had been given by the 2nd respondent under Ext.R(a)

have not been complied with by the petitioner and the running of the cattle shed is causing nuisance to the petitioner. But then, to this report detailed objections have been filed by the third respondent. It is claimed in these objections that all the directions which are given under Ext.R3(a) have been satisfactorily complied with and that bio gas plant which was direction No.4 has also been installed. In the light of the installation of the bio gas plant, direction No.5 is unnecessary since the bio gas plant will take care of direction No.5 also. In fact, in the additional counter affidavit filed on behalf of the third respondent it is stated that a bio gas plant is already constructed and that the same takes care of all the directions including direction no.5.

3. Heard Mr.V.Rajendran Perumbavoor, counsel for the petitioner, Mr. K.J.Mohammed Anzar, learned Government Pleader, Mr.Siby Mathew, counsel for the 1st respondent-Panchayat and Mr.Rajagopal, counsel for the third respondent.

4. Mr.Siby Mathew, counsel for the Panchayat submits that with the installation and commissioning of the bio gas plant, the grievances which are voiced by the petitioner have been redressed to a very considerable extent. Mr.V.Rajendran, counsel for the third

respondent does not agree. He maintains that even now as reported by the 2nd respondent in his report dated 2.7.2007, the cattle shed of the third respondent continues to cause nuisance.

5. Having considered the rival pleadings and the rival submissions addressed at the Bar, I am of the view that the Writ Petition can be disposed of issuing the following directions:

The 2nd respondent and the Secretary of the Panchayat will conduct a further inspection of the cattle shed of the third respondent with notice to the petitioner and the third respondent. In this inspection they will verify whether bio gas plant as claimed by the third respondent has been installed and as to whether it is functional. They will verify whether the claim of the third respondent that after the commissioning of the bio gas plant, the cattle shed has become nuisance free is correct. During the inspection, if they feel that any more directions remain to be complied with by the third respondent in his cattle shed as per Ext.R3(a), they will give appropriate directions regarding implementation of the same. They will give a reasonable time to the third respondent for complying with such directions, if any, issued to him. If it is seen that even after the expiry of one month's time after the inspection which is being conducted pursuant

to this judgment, the 1st respondent is free to take any decision regarding implementation of the original directions in Ext.R3(a). Before the Panchayat goes on to take any action for implementation of the original directions in Ext.R3(a), the Panchayat will issue notice to the third respondent and hear him also.

The Writ Petition is disposed of as above.

srd **PIUS C.KURIAKOSE, JUDGE**